



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8  
999 18<sup>TH</sup> STREET - SUITE 300  
DENVER, CO 80202-2466  
<http://www.epa.gov/region08>

September 20, 2004

Ref: 8ENF-L

CERTIFIED MAIL 7003 2260 0001 7790 8031  
RETURN RECEIPT REQUESTED

Kathleen Dixon, Chair  
Natrona County Commissioners  
200 North Center, Room 115  
Casper, WY 82601

Re: Notice of Complaint and Notice of Opportunity for  
Hearing Against  
Irene Brooks (Goose Egg Inn)  
Docket No. **SDWA-08-2004-0051**

Dear Ms. Dixon:

Pursuant to section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300g-3(a)(2)(B), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

EPA is filing a Complaint and Notice of Opportunity for Hearing ("complaint") under section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), to Irene Brooks ("Respondent") for the Goose Egg Inn public water system in Casper, Wyoming. Respondent is in violation of an Administrative Order ("Order"), Docket No. SDWA-8-2001-02, which required compliance with the National Primary Drinking Water Regulations ("NPDWRs"). Respondent failed to monitor for total coliform bacteria and failed to report analytical results and NPDWR violations to EPA and provide public notice of the violations, in violation of the Order.

A copy of this complaint is enclosed for your information. The complaint does not require any response or action by the County Commission.



If you have questions specific to the violations or penalty, the most knowledgeable people on my staff regarding this matter are Melanie Wasco, Environmental Protection Specialist, who can be reached at (800) 227-8917 extension 6540 or Michelle Jalazo, Enforcement Attorney, who can be reached at (800) 227-8917 extension 6921.

Sincerely,

**SIGNED**

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 8**  
**999 18<sup>TH</sup> STREET - SUITE 300**  
**DENVER, CO 80202-2466**  
**Phone 800-227-8917**  
**<http://www.epa.gov/region08>**

**September 20, 2004**

Ref: 8ENF-L

CERTIFIED MAIL 7003 2260 0001 7790 8024  
RETURN RECEIPT REQUESTED

Irene Brooks  
Goose Egg Inn  
10580 Goose Egg Inn  
Casper, WY 82644

Re: Complaint and Notice of  
Opportunity for Hearing  
Docket No. **SDWA-08-2004-0051**  
PWS ID # WY5600547N

Dear Ms. Brooks:

Enclosed is an Administrative Complaint and Notice of Opportunity for Hearing ("complaint") filed against Irene Brooks ("Respondent"), under section 1414 of the Safe Drinking Water Act (SDWA) 42 U.S.C § 300g-3. The U.S. Environmental Protection Agency (EPA) alleges in the complaint that Respondent failed to comply with an Administrative Order, Docket No. SDWA-8-2001-02, issued on November 6, 2000, under section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g). These violations are specifically set out in the complaint.

By law, you have the right to request a hearing regarding the matters set forth in the complaint. Please pay particular attention to those parts of the complaint entitled "Opportunity to Request a Hearing" and "Failure to File an Answer." If you do not respond to this complaint within 30 days of receipt, a Default Judgment may be entered and the proposed civil penalty may be assessed without further proceedings. In your answer you may request a hearing. You have the right to be represented by an attorney at any stage of these proceedings.

Whether or not you request a hearing, you may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty. You may appear at the conference yourself and/or be represented by your counsel.



*Printed on Recycled Paper*

EPA encourages all parties against whom it files a complaint proposing assessment of a penalty to pursue the possibilities of settlement through an informal conference. Any such settlement shall be finalized by the issuance of a final order by the Regional Judicial Officer, EPA Region 8.

A request for an informal conference does not extend the 30 day period during which you must submit a written answer and a request for a hearing. The informal conference procedure may be pursued as an alternative to, and simultaneous with the adjudicatory hearing.

If you have questions specific to the violations or proposed penalty, the most knowledgeable people on my staff regarding this matter are Melanie Wasco, Environmental Protection Specialist, who can be reached at (303) 312-6540 or Michelle Jalazo, Enforcement Attorney, who can be reached at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

**SIGNED**

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures

cc: Larry Robinson, WYDEQ  
Dr. Karl Musgrave, WYDOH

\_\_\_\_\_ **UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**REGION 8**

IN THE MATTER OF	)
	)
Irene Brooks	)
Goose Egg Inn	)
10580 Goose Egg Road	)
Casper, WY 82604	)
PWS ID # 5600547N	)
	)
Respondent	) Docket No. <b>SDWA-08-2004-0051</b>
	)
	) <b>COMPLAINT AND NOTICE OF</b>
	) <b>OPPORTUNITY FOR HEARING</b>
Proceedings under section 1414(g)	)
of the Safe Drinking Water Act,	)
42 U.S.C. § 300g-3(g)	)
	)

**COMPLAINT**

This civil administrative Complaint and Notice of Opportunity for Hearing ("complaint") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by section 1414(g)(3) of the Safe Drinking Water Act, as amended ("SDWA"), 42 U.S.C. § 300g-3(g)(3). Section 1414(g)(3) of the SDWA authorizes the Administrator of the EPA to assess an administrative civil penalty, not exceeding \$25,000, against any person who violates, or fails or refuses to comply with, an order issued under section 1414(g)(1) of the SDWA.

Complainant in this action is the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, who has been duly

authorized to institute this action. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. ("Consolidated Rules of Practice")(Complainant's Attachment 1).

### **GENERAL ALLEGATIONS**

The following general allegations apply to each count of this complaint:

1. Irene Brooks ("Respondent") is an individual and therefore a "person" within the meaning of section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, Goose Egg Inn Water System, located in Natrona, Wyoming for the provision to the public of piped water for human consumption.
3. The Goose Egg Inn Water System regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of section 1401(16) of the SDWA, 42 U.S.C. § 300f(16) and 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of section 1401(5) of the SDWA, 42 U.S.C. § 300f(5) and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of part B of the SDWA, 42 U.S.C. § 300g et seq., and its

implementing regulations, 40 C.F.R. part 141.

5. Respondent operates a system that is supplied solely by a groundwater source consisting of one well. The system serves an average of 40 persons daily through 1 service connection and is open year round.
6. On November 6, 2000, EPA issued an Administrative Order (Docket No. SDWA-8-2001-02) to the Respondent pursuant to section 1414(g)(1) of the SDWA, 42 U.S.C. § 300g-3(g)(1), citing violations of the NPDWRs. A copy of the Administrative Order is attached to this complaint and incorporated herein (Complainant's Attachment 2).
7. The Administrative Order required the Respondent, among other things, to achieve compliance with the NPDWRs, 40 C.F.R. part 141, in accordance with the schedule set forth in the Administrative Order.
8. On March 25, 2003, EPA sent Respondent a "Violation of Administrative Order" letter citing Respondent's failure to comply with the Administrative Order and the NPDWRs. (Complainant's Attachment 3).

#### SPECIFIC ALLEGATIONS

##### **Count I**

##### **Failure to Monitor for Total Coliform Bacteria**

9. 40 C.F.R. § 141.21 requires non-community public water systems serving less than 1,001 persons to monitor the water at least once per quarter to determine compliance with the Maximum Contaminant Level ("MCL") for total coliform

bacteria as stated in 40 C.F.R. § 141.63.

10. 40 C.F.R. § 141.63(a)(2) imposes and defines the MCL for total coliform bacteria, applicable to public water system collecting fewer than 40 samples per month, as no more than one sample collected during the month may be positive for total coliform bacteria.
11. As stated in section III. paragraph 3. of the Findings of Violation section of the Administrative Order, monitoring results submitted by Respondent for its public water system during the 3rd and 4th quarters of 1998 exceeded the MCL for total coliform bacteria, in violation of 40 C.F.R. § 141.63(a)(2).
12. Page 5, paragraph 1 of the Order section of the Administrative Order required Respondent to comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring to comply with the MCLs as stated in 40 C.F.R. § 141.63. The paragraph also required Respondent to report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
13. Respondent failed to perform quarterly bacteriological monitoring in the second quarter (April through June) of 2001, the first quarter (January through March) of 2002 and the fourth quarter (October through December) of 2002, in violation of the Administrative Order and 40 C.F.R. § 141.21(a).

**Count II**  
**Failure to Report Analytical Results to EPA**



14. 40 C.F.R. § 141.31(a) requires suppliers of water to report to EPA the results of any test measurement or analysis required by the NPDWRs within the first ten days following the end of the monitoring period.
15. Page 5, paragraph 1 of the Order section of the Administrative Order required Respondent to comply with the requirement of 40 C.F.R. § 141.21(a) to perform quarterly bacteriological monitoring to comply with the MCLs as stated in 40 C.F.R. § 141.63 and to report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a).
16. Page 6, paragraph 2 of the Order section of the Administrative Order required Respondent to comply with the nitrate monitoring requirements as stated in 40 C.F.R. § 141.23(d) to determine compliance with the nitrate MCL appearing at 40 C.F.R. § 141.62(b) and to report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).
17. Respondent failed to report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by the Administrative Order and 40 C.F.R. § 141.31(a) for the following total coliform monitoring results: the fourth quarter (October through December) of 2000; the third quarter (July through September) of 2001; the fourth quarter (October through December) of 2001; the second quarter (April through June) of 2002; the third quarter (July through September) of 2002; the first quarter (January through March) of 2003; the second

quarter (April through June) of 2003; the third quarter (July through September) of 2003 and the fourth quarter (October through December) of 2003, in violation of the Administrative Order and 40 C.F.R. § 141.31(a).

18. Additionally, Respondent failed to report analytical results to EPA within the first 10 days of the end of the monitoring period, as required by the Administrative Order and 40 C.F.R. § 141.31(a) for the following nitrate monitoring results: 2001 and 2002, in violation of the Administrative Order and 40 C.F.R. § 141.31(a).

**Count III**  
**Failure to Notify the Public**  
**of NPDWRs Violations**

19. 40 C.F.R. § 141.32 requires the owner or operator of a public water system to notify the public of any MCL, monitoring requirement, or treatment technique violation. Owners or operators of public water systems are required to perform such notifications to the public in the manner provided in 40 C.F.R. § 141.32 prior to May 6, 2002, and in the manner provided in 40 C.F.R. part 141 subpart Q on or after May 6, 2002.
20. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violation of the NPDWRs, including violations of monitoring requirements.
21. Pages 6 and 7, paragraph 3 of the Order section of the Administrative Order required Respondent, within thirty days of the effective date of the Administrative Order, to provide a public notice for the violations specified in the Administrative

Order to return to compliance with 40 C.F.R. § 141.32. Additionally, the paragraph required Respondent to comply with the publication notification requirements at 40 C.F.R. § 141.32 following any future NPDWR violation and to submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

22. Respondent failed to provide notice to the public of the violations identified in the Administrative Order and the violations alleged in Counts I and II above, and failed to submit a copy of the public notice to EPA, in violation of the Administrative Order and 40 C.F.R. §§ 141.32, 141.201 and 141.31(d).

**Count IV**  
**Failure to Report Noncompliance**  
**with NPDWRs to EPA**

23. 40 C.F.R. § 141.31(b) requires that except where a different period is specified by 40 C.F.R. part 141, public water systems shall report any failure to comply with the NPDWRs (40 C.F.R. part 141) to EPA within 48 hours.
24. 40 C.F.R. § 141.21(g)(2) requires public water systems that have failed to comply with a coliform monitoring requirements under 40 C.F.R. § 141.21 to report the monitoring violation to EPA within ten days after the system discovers the violation.
25. Page 7, paragraph 4 of the Order section of the Administrative Order required Respondent to comply with 40 C.F.R. § 141.31(b) by reporting to EPA any failure

to comply with any NPDWR (40 C.F.R. part 141) within 48 hours.

26. Page 7, paragraph 5 of the Order section of the Administrative Order required Respondent to comply with 40 C.F.R. § 141.21(g)(2) by reporting to EPA any failure to comply with coliform monitoring requirements within 10 days after the system discovers the violation.
20. Respondent failed to report to EPA instances of noncompliance detailed in the Counts I, II and III, as set forth above, in violation of the Administrative Order and 40 C.F.R. §§ 141.21(g)(2) and 141.31(b).

#### **PROPOSED ADMINISTRATIVE CIVIL PENALTY**

Section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), authorizes the Administrator to assess an administrative civil penalty of up to \$25,000 for violation of an administrative order issued under section 1414(g)(1) of the SDWA. The proposed penalty has been determined in accordance with section 1414 of the SDWA, 42 U.S.C. § 300g-3. For purposes of determining the amount of any penalty to be assessed to calculate a rational and consistent penalty, EPA has taken into account the seriousness of the violation, the population at risk, and other appropriate factors, including Respondent's degree of willfulness and/or negligence, history of noncompliance, if any, and ability to pay, as known to Complainant at this time. Based on the above factors, EPA proposes to assess an administrative civil penalty of One Thousand Nine Hundred Dollars (\$1,900) against Respondent for violation of the Administrative Order.

#### **OPPORTUNITY TO REQUEST A HEARING**

As provided in section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(B), a

Respondent has the right to request a public hearing on any material fact alleged in this complaint or on the appropriateness of the proposed penalty or to assert that Respondent is entitled to judgment as a matter of law.

If you wish to request a hearing, you must file a written answer in accordance with 40 C.F.R. §§ 22.15 and 22.42 within thirty (30) calendar days after this complaint is served. If this complaint is served by mail, you have an additional five (5) calendar days, pursuant to 40 C.F.R. § 22.7(c).

If you request a hearing in your answer, the procedures provided in 40 C.F.R. part 22, subpart I, will apply to the proceedings, and the Regional Judicial Officer will preside. However, you have the right under the SDWA to elect a hearing on the record in accordance with section 554 of the Administrative Procedure Act, 5 U.S.C. §§ 551, et seq. ("APA"). To exercise this right, you must include in your answer a specific request for a hearing on the record in accordance with 5 U.S.C. § 554. Upon such request, the Regional Hearing Clerk will recaption the pleadings and documents in the record as necessary. (See 40 C.F.R. § 22.42) Pursuant to such a request, subpart I will not apply to the proceedings and an Administrative Law Judge from Washington, D.C., will preside.

Your answer must be in writing. An original and one copy of the answer must be sent to the attorney listed below and the EPA Regional Hearing Clerk at the address below:

Tina Artemis  
Region 8 Hearing Clerk (8RC)  
U.S. Environmental Protection Agency  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

### **FAILURE TO FILE AN ANSWER**

To avoid entry of a default order against you pursuant to 40 C.F.R. § 22.17 for the full amount of the penalty proposed in this complaint, Respondent must file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this complaint. Respondent's answer should clearly and directly admit, deny, or explain each of the factual allegations contained in this complaint with regard to which Respondent has any knowledge. Respondent's answer should state (1) the circumstances or arguments which are alleged to constitute grounds of defense, (2) a concise statement of the facts which Respondent intends to place at issue in the hearing, and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in this complaint shall constitute an admission of the allegation.

### **SETTLEMENT CONFERENCE**

EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation, in a settlement conference does not extend the period for filing an answer and request for hearing as set out

above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in 40 C.F.R. part 22. If a settlement can be reached, its terms shall be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Regional Judicial Officer. A request for a settlement conference, or any questions that you may have regarding this complaint, should be directed to the attorney listed below.

Dated this 16<sup>TH</sup> day of September, 2004.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION 8

Complainant.

---

**SIGNED**

Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

---

**SIGNED**

Michelle D. Jalazo  
Enforcement Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice  
U.S. EPA Region 8  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466  
Telephone Number: (303) 312-6921  
Facsimile Number: (303) 312-6953

IN THE MATTER OF:

Irene Brooks (Goose Egg Inn)

DOCKET NUMBER:

SDWA-08-2004-0051

---

**CERTIFICATE OF SERVICE**

---

The undersigned hereby certifies that the original and one copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with Attachments 1 through 3 were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 999 18th Street, Denver, Colorado, and that a true copy of the same was delivered as follows:

Via CERTIFIED MAIL/RETURN RECEIPT REQUESTED to:

Irene Brooks  
Goose Egg Inn  
10580 Goose Egg Road  
Casper, WY 82604

and

Kathleen Dixon, Chair  
Natrona County Commissioners  
200 North Center, Room 115  
Casper, WY 82601

Date: 9/20/04

By: SIGNED  
Judith McTernan

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE REGIONAL HEARING CLERK.**

**THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 20, 2004.**



